

**VARNUM, RIDDERING, SCHMIDT & HOWLETT**

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**EX PARTE OR LATE FILED**

PATRICK A. MILES, JR.

DIRECT DIAL 616/336-6902

**October 28, 1994**

**Mr. William F. Caton**  
**Acting Secretary**  
**Federal Communications Commission**  
**Room 222, 1919 M Street, N.W.**  
**Washington, D.C. 20554**

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**OCT 31 1994**  
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**FEDERAL COMMUNICATIONS COMMISSION**  
**OFFICE OF SECRETARY**

**Re: Ex Parte Presentation in MM Docket No. 93-215**

**Dear Mr. Caton:**

Pursuant to the Commission's ex parte rule, 47 C.F.R. § 1.1206, enclosed herewith are two copies of a letter from John Pestle, Esq., delivered to Mr. Blair Levin, Chief of Staff to Chairman Reed Hundt, of the Federal Communications Commission, on October 31, 1994, in MM Docket No. 93-215.

Please contact the undersigned if you have any questions regarding this matter.

Respectfully submitted,

**VARNUM, RIDDERING, SCHMIDT & HOWLETT**

*Patrick A. Miles, Jr.*  
Patrick A. Miles, Jr.

PM/pll  
Enclosure

cc: Ms. Merrill Spiegel (Chairman Hundt's Office)  
Ms. Maureen O'Connell (Commissioner Quello's Office)  
Ms. Lisa Smith (Commissioner Barrett's Office)  
Ms. Jill Luckett (Commissioner Chong's Office)  
Ms. Mary McMannis (Commissioner Ness' Office)  
Mr. Richard Welch (Commissioner Chong's Office)  
Ms. Meredith Jones, Chief, Cable Services Bureau  
Mr. William Johnson, Deputy Chief, Cable Services Bureau  
Mr. Patrick Donovan, Chief, Policy and Rules Division, Cable Services Bureau  
Ms. Mary Ellen Burns, Chief, Consumer Protection Division, Cable Services Bureau

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PEOPLES REPUBLIC OF CHINA

October 28, 1994

Mr. Blair Levin  
Chief of Staff  
Offices of Chairman Reed Hundt  
Federal Communications Commission  
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Washington, D.C. 20554

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OFFICE OF SECRETARY

RE: Ex Parte Presentation in MM Docket No. 93-215

Dear Mr. Levin:

This supplements my letter to you of last week on the so-called "going forward" proposals which the Commission is considering. We find that one additional point needs to be made to prevent the "rate shock" and double digit increases in cable rates outlined in my prior letter if the Commission adopts proposals such as those under consideration.

Specifically, it appears the Commission is considering a "safe harbor" for adding new channels where a cable operator may be able to add channels up to a price cap of (say) \$1.50 per month. My prior letter pointed out how roughly 40% of all subscribers are seeing (or in the next six months will see) rate increases of roughly \$1.00, which combined with a "safe harbor" \$1.50 increase will lead to rate increases in the double digit range. To mitigate this, we recommended that the price cap be reduced by all rate increases which the cable operator has implemented during the prior 12 months.

Upon reflection, this recommendation has an obvious loophole as follows: It would address the situation where a cable operator first implements a \$1.00 increase (for inflation and external costs) on January 1. Subsequent increases during the next year for the safe harbor would be limited to 50¢.

However, there is an obvious gap in our recommendation in that simply by reversing the order of the increases the cable operator would be able to escape the limit. For example, cable

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operators would doubtless implement the safe harbor rate increase of \$1.50 on January 1 and then implement the external costs/inflation \$1.00 increase on March 1.

To prevent such subterfuges, if the Commission adopts a safe harbor rate (which we oppose) it should expressly state that the \$1.50 price cap is reduced by both (a) rate increases which the cable operator has implemented during the prior 12 months and (b) rate increases which the cable operator implements in the 12 following its adoption of the safe harbor. To implement the latter point, the Commission should rule that during the 12 months after it is used, the safe harbor price cap is reduced penny by penny for any rate increases implemented by the cable operator.

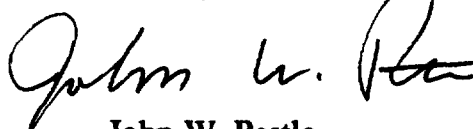
Provisions such as the preceding are essential to prevent rate shock and a return to the double digit cable rate increases which lead to the 1992 Cable Act.

As always, we appreciate your considering our views.

With best wishes,

Very truly yours,

VARNUM, RIDDERING, SCHMIDT & HOWLETT



John W. Pestle

JWP/kel

cc: Ms. Merrill Spiegel (Chairman Hundt's Office)  
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Mr. William Caton (two copies)